

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

ALONZO AUSTIN, etc.,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 3:07-cv-00138-MHT-WC
)	
MODERN WOODMAN OF)	
AMERICA, et al.,)	
)	
Defendant.)	

MOTION TO DISMISS OF
MACON COUNTY PROBATE JUDGE ALFONZA MENELEE

Defendant Macon County Probate Judge Alfonza Menefee moves the Court to dismiss him as a defendant in this action. This motion is based upon the following grounds:

1. The complaint fails to state a claim against said defendant upon which relief may be granted.

2. The complaint affirmatively shows on its face that the plaintiff's federal and state law claims alleged in the complaint are barred by the expiration of the applicable statute of limitations.

3. It affirmatively appears from the face of the complaint that all of the matters at issue in this case involve alleged conduct undertaken by Judge Menefee in his judicial capacity as Probate Judge of Macon County, Alabama. Because such is

the case, he is entitled to absolute legislative immunity from plaintiff's claims in this action.

4. Judge Menefee is entitled to qualified immunity from plaintiff's claims alleged under 42 U.S.C. § 1983 in the complaint in this case.

s/ George W. Royer, Jr.

George W. Royer, Jr.

LANIER FORD SHAVER & PAYNE, P.C.

P. O. Box 2087

Huntsville, AL 35804

Telephone: 256-535-1100

Attorneys for Defendant Alfonza Menefee

CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing upon the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Joe Espy, III
Melton, Espy & Williams, P.C.
P. O. Drawer 5130
Montgomery, Alabama 36103

I hereby certify that I have served a copy of the foregoing by depositing a copy of the same in the United States mail, postage prepaid and properly addressed to his attorney of record to:

Alonzo Austin
1321 Oliver-Carlis Rd.
Tuskegee, Alabama 36083

City of Tuskegee Police Department
101 Fonville Street
Tuskegee, Alabama 36083

Modern Woodman of America
1701 1st Avenue
Rock Island, IL 16120

Montgomery City Police Department
320 N. Ripley Street
P. O. Box 159
Montgomery, Alabama 36101-0159

Howard F. Bryan
101 East Northside Street
Tuskegee, Alabama 36083

Robert Story
802 Crawford Street
Tuskegee, Alabama 36083

Deborah Hill Biggers
Tuskegee Institute
P. O. Box 1183
Tuskegee, Alabama 36087

Alabama State Treasurer's Office
P. O. Box 302520
Montgomery, Alabama 36130-2520

Mason Manor
4120 Carmichael Road
Montgomery, Alabama 36106

Alabama State Board of Licensure
P. O. Box 887
Montgomery, Alabama 36101

Alabama Exchange Bank President
102 West Northside Street
Tuskegee, Alabama 36083

Juanita K. Upshaw
P. O. Box 830265
Tuskegee, Alabama 36083

Robert Davis
102 West Northside Street
Tuskegee, Alabama 36083

George Clay
1205 Main Street
Tuskegee, Alabama 36083

SouthTrust Bank
307 N. Gay Street
Auburn, AL 36830-3915

Aetna Insurance Co.
Tampa Business Center
P. O. Box 30257
Tampa, Florida 33620-3257

Regions Bank
8 Commerce Street
Montgomery, Alabama 36104

on this the 12th day of March, 2007.

s/ George W. Royer, Jr.
George W. Royer, Jr.